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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,872	01/14/2004	Rahul Gupta	2003P14713US	5185

7590 10/18/2005

Siemens Corporation
Attn: Elsa Keller, Legal Administrator
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

EXAMINER

GARRETT, DAWN L

ART UNIT	PAPER NUMBER
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1774

DATE MAILED: 10/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/757,872	GUPTA ET AL.	
	Examiner	Art Unit	
	Dawn Garrett	1774	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2005.
 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-13 and 27-33 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1,2,4-13 and 27-33 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date, _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>7-29-2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Response to Amendment***

1. This Office action is responsive to the amendment dated August 16, 2005. Claims 1, 4-6, 9, and 11 have been amended. Claims 3 and 14-26 are canceled. New claims 27-33 have been added. Claims 1, 2, 4-13, and 27-33 are pending.

2. The rejections of claims 1-13 under 35 U.S.C. 112, second paragraph, set forth in the last Office action (mailed March 18, 2005) are withdrawn due to applicant's arguments.

3. Claims 1, 2, 4-9, 12, and 27-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Endo et al. (US 6,787,063). Endo et al. discloses electro-optical devices (see abstract). Example 2 describes a device comprising a glass substrate with an indium tin oxide (ITO) coating per the instant "deposition surface" (see col. 11, lines 18-19). Pixels comprised of polyimide film and SiO₂ film formed by lithography are disposed on the ITO anode layer per the instant "photo-resist layer" (see col. 11, lines 18-19). The anode layer and polyimide/SiO₂ film are subjected to a plasma treatment per instant claim 4 (see col. 11, lines 24-37). A hole injection-transportation solution is applied to the cavity formed by the patterned polyimide/SiO₂ pixels. The solvent in the solution is removed by heat treatment (see col. 11, lines 37-46). The hole injection-transportation composition comprises 11.08% Baytron P (a PEDOT:PSS conductive polymer, see product information), 1.44% poly(styrene sulfonate), 10% isopropyl alcohol, 27.48 % n-methylpyrrolidone, and 50% 1,3-dimethyl-imidazolinone (see Table 5). The isopropyl alcohol of the solution is considered to be a humectant. Because the final product claimed is considered to comprise a dried organic film layer (see claim 1), the water recited in the claims is considered to be part of the solution used in making the final product. The water is

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not considered to be part of the final product. The OLED (per instant claim 5) further comprises an emitting layer over the hole injection-transportation layer per instant claim 7 (see col. 11, lines 46-52). The cathode is formed over the emission layer per instant claim 8 (see col. 11, lines 53-55). The device may further comprise thin film transistors per instant claim 12 (see col. 10, lines 51-54). Because Endo et al. discloses the same deposition surface material, the same photo-resist material, and the same plasma treatment process of these materials as set forth by applicant, the properties of surface energy recited in claim 1 and degrees of hydrophilic and hydrophobic properties of claim 4 are deemed to be inherently met by the reference.

4. Claims 1, 2, 5-9, 12, 13, and 27-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Kwong et al. (US 2004/0214038 A1). Kwong et al. discloses electronic devices comprising an anode layer formed of ITO (see par. 27) per the “deposition surface”, a polyimide photoresist grid (see par. 72) per the “photo-resist layer”, and a hole injection layer formed by a solution of PEDOT:PSS conductive polymer (see par. 52) per the “organic layer composed of a dried film” per instant claims 1, 2, and 29. The device further comprises an emissive layer (see Kwong et al. claim 5) per instant claim 7. The device also comprises a cathode (see par. 55) per instant claim 8. Kwong et al. discloses the materials and structures described are applicable to organic electroluminescent devices (OLEDs), organic solar cells, and organic transistors (see par. 60) per instant claims 5, 12, and 13. Kwong et al. is deemed to disclose the final product. Because Kwong et al. disclose the same deposition surface material, the same photo-resist material, and the same plasma treatment process of these materials as set forth by applicant, the properties of surface energy recited in claim 1 and degrees of hydrophilic and hydrophobic properties of claim 4 are deemed to be inherently met by the reference.

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5. Claims 1, 2, 4-11, and 27-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Ito et al. (US 2004/0021413 A1). Ito et al. discloses an electroluminescent display comprising an anode comprising ITO per the deposition surface (see par. 189), partition walls comprising a photoresist material (see par. 189), and a PEDOT:PSS hole injection layer (see par. 170). Ito et al. discloses the use of specific PEDOT:PSS solution "Baytron P AI 4083" (which is disclosed in the specification as comprising PEDOT to PSS in a 1:6 ratio per instant claim 10; see also Baytron P AI 4083 product material information cited with this Office action) (see par. 170). Claims 3, 11, 27, 28, 30, 32 and 33 are drawn to solutions used in the process of making the final product. Ito et al. is deemed to teach a device comprising all required components of the final product. Ito et al. further discloses a luminescent layer (see par. 174) and a cathode (see par. 182) per instant claims 7 and 8. Ito et al. further describes plasma treatment of the device (see par. 137) per instant claim 4.

Response to Arguments

6. Applicant's arguments filed May 20, 2005 have been fully considered but they are not persuasive.

Applicant argues Endo, Kwong and Ito do not teach the same solution for depositing a layer as claimed. The examiner submits applicants have not conclusively shown that the final products disclosed by Endo, Kwong and Ito are different from applicant's product. Water and humectant are not considered part of the final product. Per M.P.E.P. § 2145, the arguments of counsel cannot take the place of evidence in the record. *In re Schulze*, 346 F.2d 600, 602, 145 USPQ 716, 718 (CCPA 1965); *In re Geiseler*, 116 F.3d 1465, 43 USPQ2d 1362 (Fed. Cir. 1997). Also see M.P.E.P. § 2113 for a discussion of product-by-process type claims:

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“Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.”

In re Thorpe, 227 USPQ 964, 966 (Fed. Cir. 1985)...

“The Patent Office bears a lesser burden proof in making out a case of *prima facie* obviousness for product-by-process claims because of their peculiar nature” than when a product is claimed in the conventional fashion.

In re Fessman, 180 USPQ 324, 326 (CCPA 1974).

Once the Examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289, 292 (Fed. Cir. 1983).

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

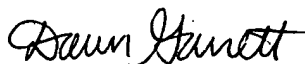
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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dawn Garrett whose telephone number is (571) 272-1523. The examiner can normally be reached Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached at (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Dawn Garrett
Primary Examiner
Art Unit 1774

October 12, 2005